

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Anthony Breyan,)	
)	
Plaintiff,)	
)	Civil Action No. 8:24-cv-7034-BHH
v.)	
)	
Judge John Cliff Long,)	<u>ORDER</u>
and Officer Roy E. Cox, III,)	
)	
Defendants.)	
_____)	

This matter is before the Court upon Plaintiff Michael A. Breyan's pro se ("Plaintiff") complaint filed pursuant to 42 U.S.C. § 1983. (ECF No. 1.) In accordance with Local Civil Rule 73.02(B)(2), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

On December 9, 2024, the Magistrate Judge issued a report and recommendation ("Report"), outlining the issues and recommending that the Court summarily dismiss Plaintiff's complaint without further leave to amend. (ECF No. 6.) Attached to the Magistrate Judge's Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. On December 26, 2024, Plaintiff filed objections to the Report, and the matter is ripe for review. (ECF No. 10.) Plaintiff also filed the same motion for preliminary injunction in all of his pending cases, but the motion does not contain any allegations that pertain to this case. (ECF No. 9.)

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final

determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

In her Report, the Magistrate Judge explained that this is not the first time Plaintiff has filed a lawsuit contesting the validity of his 2021 arrest and subsequent confinement at the Columbia Regional Care Center, and that the Court has previously rejected similar claims in other cases. (ECF No. 6 at 4.) The Magistrate Judge explained that Plaintiff’s allegations against Officer Cox in this case, as in previous cases, are insufficient to state a claim under § 1983, and that Plaintiff’s allegations against Judge Long are also subject to summary dismissal because Judge Long’s actions are protected by judicial immunity. (*Id.* at 5-7.) The Magistrate Judge also specifically warned Plaintiff that the continued filing of frivolous, duplicative actions may result in the imposition of a pre-filing injunction and other sanctions.

Plaintiff filed a single page of objections, wherein he objects to the dismissal of his case and asserts that he was falsely accused. (ECF No. 10.) Importantly, however, nowhere in his objections does Plaintiff specifically respond to the Magistrate Judge’s

findings as to Plaintiff's claims against Defendants Long and Cox. Although Plaintiff's non-specific objections do not entitle him to de novo review, even giving him the benefit of the doubt and conducting a de novo review, the Court fully agrees with the Magistrate Judge's analysis and finds that this case is subject to summary dismissal for the various reasons outlined in the Report, and the Court finds no merit to Plaintiff's objections.

Accordingly, the Court hereby adopts and incorporates the Magistrate Judge's Report (ECF No. 6); the Court overrules Plaintiff's objections (ECF No. 10); the Court denies Plaintiff's motion for preliminary injunction (ECF No. 9); and the Court summarily dismisses this action without further leave to amend.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

March 12, 2025
Charleston, South Carolina